

Bell Atlantic
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DOCKET FILE COPY ORIGINAL

September 2, 1998



Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M. Street, N.W., Room 222
Washington, DC 20554

Received

SEP 01 1998

RE: Request for Limited Modification of LATA Boundary to Unify the Town of Erving, Massachusetts in a single LATA ^{Office of the Chief}

Dear Ms. Salas:

Bell Atlantic-Massachusetts, Inc. (BA-MA) hereby submits this request for a LATA boundary modification to unify the Town of Erving, Massachusetts, currently bisected by the LATA 126/128 boundary. The LATA boundary is coterminous with the 413/978 area code boundary and the exchange boundary separating the Orange and Millers Falls exchanges.

This request for limited re-alignment of the LATA boundary is in compliance with the Massachusetts Department of Telecommunications and Energy (DTE) order in Erving, Docket 97-109, in which the town of Erving petitioned to be unified in the 413 area code, which serves LATA 126 in its entirety. In accordance with that order, a copy of which is attached, Bell Atlantic-Massachusetts respectfully requests that the FCC expedite its consideration of this matter.

Should you have any questions regarding this material, please do not hesitate to contact me at 202-336-7875.

Sincerely,

Attachments

cc: A. Thomas
G. Matise

M. Contrell- Massachusetts Department of Telecommunications and Energy

Request for Limited Modification of LATA Boundary to Unify the Town of Erving, Massachusetts in a single LATA

Background / Chronology

On August 12, 1998, the Massachusetts Department of Telecommunications and Energy (DTE) issued an order directing Bell Atlantic to petition the FCC for a modification to a portion of the boundary separating the two Massachusetts LATAs -- LATA 128 ("eastern" LATA) and LATA 126 ("western" LATA).

This order is in response to a 1997 petition by the town of Erving, Massachusetts to unify the entire town in a single area code, 413, which serves the state's western LATA in its entirety. Currently, Erving is bisected by coterminous LATA, area code, and exchange boundaries. The DTE held a public hearing on this petition on January 26, 1998.

In its feasibility analyses filed with the DTE, BA-MA recommended a modification to the LATA, exchange, and area code boundaries to include in the western LATA/Millers Falls exchange those eastern LATA/Orange exchange customers who reside in the Town of Erving. The Town of Erving reviewed and supports Bell Atlantic's recommendation.

The DTE's August 12 order directed Bell Atlantic to implement its recommended alternative after seeking and receiving FCC approval. The DTE directed Bell Atlantic to file this request for a LATA boundary waiver within three weeks of the order (by September 2, 1998) and to request expedited treatment.

Exchanges Involved

The town of Erving is served by two exchanges -- "Orange" in the 978 area code/eastern LATA and "Millers Falls" in the 413 area code/western LATA.

Name of Carrier

Bell Atlantic-Massachusetts

Number of Network Access Lines

The most recent exchange profiles on file with the MA DTE provide the following main telephone exchange lines for the Orange and Millers Falls exchanges:

Orange	4,804
Millers Falls	854

Approximately 10% of the Orange main telephone exchange lines serve Erving customers.

Maps

Exchange maps are attached for the Orange and Millers Falls exchanges. Erving town boundaries are highlighted on both.

Community of Interest / Effects on Local Calling Areas

The Erving customers in the eastern LATA (Orange exchange/978 area code) have a strong community of interest with the western LATA because the other half of their town is served by a western LATA exchange (Millers Falls exchange/413 area code).

In addition, Orange exchange customers have local calling to 17 exchanges, 14 of which are in the western LATA. Customers in the Millers Falls exchange have local calling to these same 14 western LATA exchanges as well as to the Orange exchange and a portion of another eastern LATA exchange (Athol).

Erving customers currently in the Orange exchange will not increase their local calling area by becoming part of the Millers Falls exchange; they will, however, lose the ability to make local calls to one eastern LATA exchange (Petersham) and a portion of another (Athol).

Poll Results

No poll was conducted. On January 26, 1998, the MA DTE conducted a public hearing in Erving to provide customers with an opportunity to comment on the Town's petition. In its August 12 order, the DTE found that there was no need for BA-MA to conduct a

poll of the Erving customers in the Orange exchange and ordered BA-MA to petition the FCC for re-alignment of the LATA boundary.

State Commission Approval

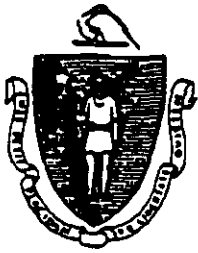
The Massachusetts Department of Telecommunications and Energy (DTE) issued an order approving this change on August 12, 1998.

Attachments

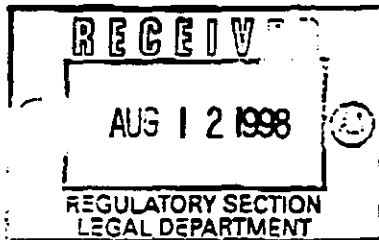
Massachusetts DTE order in Erving, Docket 97-109, issued August 12, 1998

Orange exchange map, with Erving town lines highlighted

Millers Falls exchange map, with Erving town lines highlighted



The Commonwealth of Massachusetts
DEPARTMENT OF
TELECOMMUNICATIONS AND ENERGY



August 12, 1998

D.T.E. 97-109

Petition of the Town of Erving elected officials pursuant to G.L. c. 159, § 24, requesting that the Department of Telecommunications and Energy investigate a single area code and unique exchange code for the Town of Erving, currently divided by the 413/978 area codes and the 544/659 exchange codes.

APPEARANCES: Board of Selectmen
Town of Erving
P.O. Box 188
12 East Main Street
Erving, Massachusetts 01344
FOR: TOWN OF ERVING
Petitioner

Barbara Anne Sousa, Esq.
185 Franklin Street, Room 1403
Boston, Massachusetts 02107
FOR: NEW ENGLAND TELEPHONE &
TELEGRAPH COMPANY D/B/A BELL
ATLANTIC-MASSACHUSETTS
Intervenor

I. INTRODUCTION

On December 12, 1997, pursuant to G.L. c. 159, § 24, the Board of Selectmen of the Town of Erving ("Town" or "Petitioner") filed a petition with the Department of Telecommunications and Energy ("Department") requesting that the Town, which is currently divided between the 413 and 978 area codes, be unified entirely in the 413 area code. In addition, the Petitioner requested that a unique local exchange code ("NXX") be assigned to the Town in order to eliminate the potential E-911 response confusion allegedly caused when adjacent towns with similar street names share the same NXX code. This matter was docketed as D.T.E. 97-109.

Pursuant to notice duly issued, a public hearing was held on January 26, 1998, and the petition to intervene of the New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts ("Bell Atlantic" or "Company") was granted.¹ Representatives from Bell Atlantic and the State Emergency Telecommunications Board ("SETB") made introductory statements, and members of the Town's Board of Selectmen, the Erving Area/ZIP Code Committee, and numerous Town residents made sworn statements. An aide for State Representative John Merrigan submitted and read a letter for the record. Because Bell Atlantic would have to implement any Department-ordered LATA boundary, area code boundary, and

¹ MCI Telecommunications Corporation ("MCI") filed a petition to intervene on January 20, 1998, arguing that, potentially, a decision in this case could delay a final decision in the area code case, D.P.U./D.T.E. 96-61. However, the Department issued a final order in D.P.U./D.T.E. 96-61 on January 23, 1998. After finding that MCI would not be substantially and specifically affected by any possible decision in this matter, the Hearing Officer denied MCI's petition (Tr. at 11-13).

exchange code boundary alterations, Bell Atlantic subsequently filed a Preliminary Analysis of Erving Proposal, and a Follow-Up Study of Erving Proposal. Additionally, both the Company and the Town responded to Department-issued information requests.² The evidentiary record includes twelve exhibits: eight from Bell Atlantic, and four from the Town of Erving.

II. POSITIONS OF THE PARTIES

A. Petitioner

The Petitioner argues that the Town should be unified within the 413 area code for the following reasons: 1) residents want to be recognized as a western LATA community (Tr. at 151-60, 170, and 185); 2) the Town has been wholly or partially omitted from maps (*id.* at 112-14) and potential grant programs (*id.* at 158), because of an anomalous situation that has challenged and confused public and private institutions for decades (*id.* at 152-60); 3) residents have experienced numerous problems with directory assistance when seeking numbers across the LATA boundary (*id.* at 29, 123-24, and 129); and 4) the townspeople discussed this issue extensively at town meeting and voted unanimously to "direct the Selectmen to petition the NYNEX Telephone Co. to have all phone service for the Town of Erving reflect the 413 area code" (*id.* at 159-60; Exh. DTE-ERV-3 Attach. 1997 Erving Annual Town Report at 111).

The Petitioner argues that the Town should be granted municipally-distinct NXX

² The Department hereby admits into evidence the following exhibits: DTE-1-1 to DTE-1-5, the Company's responses to the Department's information requests; DTE-ERV-1 to DTE-ERV-3, the Town's responses to the Department's information requests; DTE-ERV-4, the Town's letter to the Department dated April 28, 1998; DTE-BA-1, the Company's letter to the Department dated February 2, 1998; DTE-BA-2, the Company's Preliminary Analysis of Erving Proposal; and DTE-BA-3, the Company's Follow-Up Study of Erving Proposal.

code(s) for the following reasons: 1) distinct NXX code(s) would have prevented the misdirection of E-911 emergency responses to adjoining towns with similar street names because dispatchers would not have been confused by an NXX code that overlaps municipal borders (Tr. at 30-32, and 83-84); 2) distinct NXX code(s) will prevent future corruption of Bell Atlantic's E-911 address database caused by new construction within Erving being inadvertently recorded as in another town within an overlapping NXX code (Exh. DTE-ERV-1); 3) distinct NXX code(s) would help crystalize and support a sense of community (Tr. at 159-60, and 185-86); and 4) the townspeople discussed this issue extensively at town meeting and in a straw poll unanimously agreed that Erving "should seek not only to get one area code, but to also attempt to get its own local exchange" (Exh. DTE-ERV-3 Attach. 1997 Erving Annual Town Report at 111; Tr. at 179).

B. Bell Atlantic

With respect to the area codes issue, Bell Atlantic argues that, although it may seem an easy process to move the eastern half of Erving into the 413 area code, it is legally precluded from unilaterally doing so by the Telecommunications Act of 1996³ (Exh. DTE-BA-1 at 1; Tr. at 18). However, through a series of studies aimed at analyzing the technical, operational, and financial implications of various remedies, Bell Atlantic proposes a solution that it claims will substantially address the issues and concerns raised by the residents of the Town of Erving (see Exh. DTE-BA-3 at 2). This proposal requires Bell Atlantic to petition the Federal

³ Section 601 of the Telecommunications Act of 1996 shifts the authority to establish or modify LATA boundaries from the United States District Court to the Federal Communications Commission.

Communications Commission ("FCC") for a modification of the LATA boundary so that all Erving customers would be in the 413 area code and the western-Massachusetts LATA (*id.* at 1), and, once such FCC approval were granted, to open a new NXX code in the Orange switch to serve only the Company's east Erving customers (*id.*).

With respect to the issue of municipally distinct NXX code(s), Bell Atlantic states that it could also open a new NXX code in the Millers Falls exchange to serve only its west Erving customers, if those customers agree to take a number change (*id.*). The Town of Erving has stated that it supports implementation of this proposal as outlined, but objects to the need of the Company to conduct customer polling because, the Town argues, these issues were thoroughly discussed and approved by the voters unanimously at the Town Meeting, and therefore, such votes should supersede the results of any Bell Atlantic survey (Exh. DTE-ERV-4 at 1; Exh. DTE-ERV-3).

III. STANDARD OF REVIEW

Under the provisions of G.L. c. 159, § 16, the Department may order a common carrier (such as Bell Atlantic) to make changes in its regulations, practices, equipment, appliances, or service provided to the residents of a town when the Department finds such service to be "unjust, unreasonable, unsafe, improper, or inadequate." Before ordering changes, however, the Department shall consider "the relative importance and necessity of the changes ..., the financial ability of the carrier to comply with the requirements of the order, and the effect of ... such other changes, if any, as may be deemed by the [D]epartment [to be]

of equal or greater importance and necessity in the performance of the service which the carrier has professed to render to the public." G.L. c. 159, § 16.

IV. ANALYSIS AND FINDINGS

In its petition, and pursuant to testimony given at the public hearing and through its responses to information requests, the Town of Erving has demonstrated that the continuing division of the municipality by a LATA boundary has created significant problems for Town residents (see, e.g., Tr. at 29, 123-24, and 129 (problems with directory assistance); id. at 112-14 (Town omission from maps); id. at 158 (potential loss of state and federal education monies)). Bell Atlantic has, at the Department's request, extensively studied various remedies for this situation and has submitted a proposal that the Department finds is technically feasible, operationally sound, and financially reasonable. In addition, the Town of Erving states that it has reviewed Bell Atlantic's proposal and supports its implementation (Exh. DTE-ERV-4 at 1).

Therefore, the Department finds that Bell Atlantic's current service within the divided Town of Erving is "inadequate" within the meaning of G.L. c. 159, § 16, and should be rectified. Accordingly, the Company is directed to seek re-alignment of the LATA boundary so that the entire Town is within the 413 western-Massachusetts LATA, and to take whatever additional steps are necessary to move the residents of east Erving from the 978 area code to the 413 area code.⁴ The Company is directed to petition the FCC for an appropriate waiver or modification of the LATA boundary within three weeks of the date of this Order, and to

⁴ As the Department has determined that Bell Atlantic's service of the east Erving residents is inadequate, there is no need for the Company to conduct a poll of its customers in east Erving. The poll's result can not serve to make inadequate service adequate.

request expedited treatment. A copy of Bell Atlantic's petition shall be served on the Department and the Board of Selectmen of the Town of Erving. Bell Atlantic shall also serve a copy of the FCC's ruling on the Department and the Board of Selectmen of the Town of Erving.

With respect to the Petitioner's request for a new NXX code dedicated to Erving, the only remaining issue concerns those west Erving residents whose service derives from the Millers Falls exchange. As most municipalities in the Commonwealth of Massachusetts are served by exchanges which overlap with other municipalities, the Department does not find the service of Bell Atlantic with respect to this matter to be unjust, unreasonable, unsafe, improper, or inadequate.⁵ Therefore, the Department does not require the Company to provide a new NXX code for west Erving.

Bell Atlantic, however, has indicated its willingness to assign a new exchange code dedicated to its customers in west Erving if those customers agree to take a number change. The Town of Erving contends that the unanimous vote of the residents at Town Meeting should be accepted in lieu of the customer poll. However, by the Town's own admission, this vote was merely a "straw poll," i.e., an unofficial vote or poll indicating the trend of opinion on an issue. American Heritage Dictionary 1204 (2d C. ed. 1985). Therefore, the Department declines to require that Bell Atlantic accept this poll instead of conducting its own. Presumably, if the Town's straw poll is indicative of customer opinion, the results of the Company's poll will be similarly in favor of a new NXX code. The Department urges the

⁵ The Town of Erving has stated that cooperation between the Town, Bell Atlantic and the SETB has adequately addressed its public safety concerns (Exh. DTE-ERV-1).

parties to work together on the wording of the polling letter and the expeditious implementation of the poll. Bell Atlantic shall file the following with the Department when available: a copy of the customer polling letter, the final results of the poll, and a statement of Bell Atlantic's action taken in response to the polling results.

V. ORDER

Accordingly, after due notice, hearing, and consideration, it is


ORDERED: That the Town of Erving's petition be, and hereby is, granted in part and denied in part; and it is

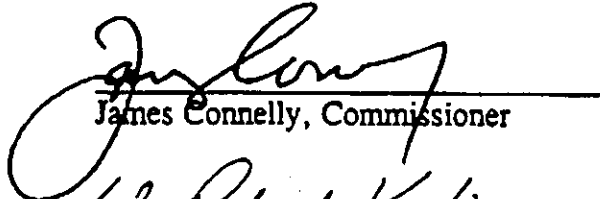
FURTHER ORDERED: That New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts seek an appropriate waiver or modification of federal requirements so that the entire Town of Erving can be placed within the 413 western-Massachusetts LATA; and it is

FURTHER ORDERED: That New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts move those Town of Erving residents currently in the 978 area code into the 413 area code, if federal approval is given; and it is

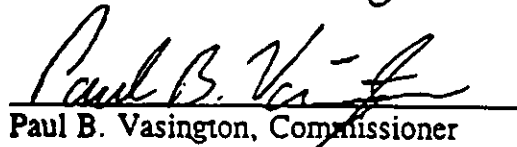
FURTHER ORDERED: That New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts shall comply with the requirements as set forth in this Order.

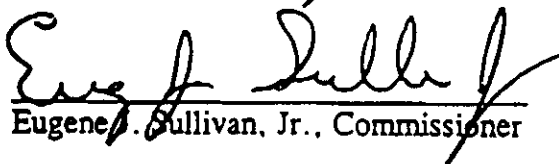
By Order of the Department,

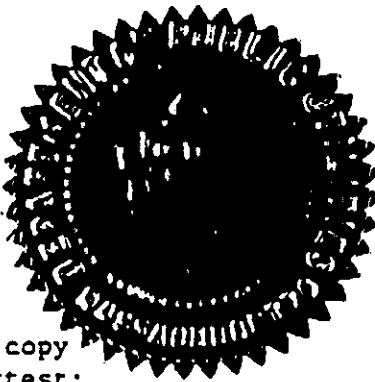

Janet Gail Besser, Chair


James Connelly, Commissioner

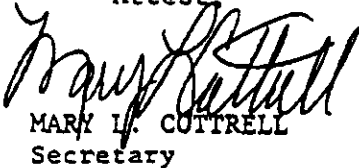

W. Robert Keating, Commissioner


Paul B. Vasington, Commissioner


Eugene J. Sullivan, Jr., Commissioner



A true copy
Attest:


MARY L. COTTRELL
Secretary

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).